

Title Insurance Report **By the Office of the Insurance** **Commissioner**

September 2007



Mike Kreidler - *State Insurance Commissioner*

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Background

This report summarizes the results of the Insurance Commissioner's most recent investigation into the use of incentives and inducements by Washington title insurers to unlawfully steer business to their companies.

This investigation, covering six title insurers during a four-month period ending March 30, 2007, is the third in the agency's ongoing effort to enforce the state's \$25 per person per year limit on spending by title insurance companies.

The [initial investigation](#), covering 10 insurers in King, Pierce and Snohomish counties in 2005 and 2006, revealed widespread, pervasive and routine use of illegal spending to steer business to their companies. Title insurers were lavishing thousands of dollars' worth of gifts, gratuities, junkets and other incentives on middlemen – primarily real estate agents and brokers – who were in a position to refer home buyers to specific companies for their title insurance needs.

The Insurance Commissioner issued [technical guidance](#) to assist the industry with compliance, and served notice that companies would be subject to vigorous enforcement if violations continued.

A subsequent, [second investigation](#), covering three companies from the initial investigation, was concluded earlier this year, and resulted in two of the three being fined a total of \$35,000 for multiple violations. Although the investigation found that violations were still occurring, it also revealed a significant decline in the amount of money being spent on illegal inducements.

The third investigation

For the third investigation, investigators targeted six title agencies representing a cross-section of the industry, writing business for several different title insurance companies. These agencies and the insurers they represent were not previously investigated, and the thrust of the investigation was to determine if selected companies not originally reviewed were in compliance. The agencies investigated included:

- **Stewart Title of Snohomish County, Inc.**, (Everett, Snohomish County) – agent for large multi-state insurer
- Three smaller independent agencies:
 - **Cascade Title of Clark County** (Vancouver, Clark County)
 - **Clark County Title** (Vancouver, and Clark and Skamania counties)
 - **Thurston County Title Co.** (Olympia, Thurston County)
- **Rainier Title, LLC** (Puyallup, Pierce County) – an affiliated business arrangement with real estate brokers.
- **Land Title** (Silverdale, Kitsap County) – representing a fast-growing rural area

The investigation included a review and analysis of the checkbooks, expense account documents and “clock hour” class expenses for each of the six agencies

during the four-month period. “Clock hour” classes refer to the continuing education requirements that real estate professionals must complete to maintain their licenses.

General findings

This investigation found many of the same problems and issues that surfaced during the earlier investigations:

- Most of the companies do not have an effective system for tracking the money they spend on incentives and inducements, and thus are unable to completely document compliance with the \$25 per person per year regulation. Receipts were variously missing, not itemized by diner, lacked the identity and number of attendees, and the purpose of the meal or event. The agencies permitted employees to divide meals and entertainment expenses on a pro-rated, per person basis, rather than calculating the exact amount spent per person, per year.
- Most of these companies continue to provide information and other helpful items to real estate agents, brokers and agencies either for free or well below market value or actual costs.
- There are significant problems connected to the “clock hour” classes and the fees the companies charged real estate agents and brokers who attended. While some of the fees reflected the costs of materials and refreshments provided to attendees, many agencies failed to factor in the cost of the instructor’s time and the cost of the venue. Some also failed to understand that classes on the subject of “escrow” do not fall within the exemption for “title insurance” classes.
- Some of the companies provide a wide array of valuable goods and services to real estate agents and brokers, lenders and builders that may constitute illegal inducements or rewards.

Specific findings

The investigation and review of each agent’s records revealed the following: (penalties and fines for violations are proposed, and companies have a right to a hearing on the matter):

Thurston County Title (licensed agent for Pacific Northwest Title Insurance Co., Commonwealth Land Title Insurance Co., and Lawyers Title Insurance Corp.)

This agent, relatively small and privately owned business, provides evidence that title insurers can abide by the letter of state law as it applies to inducements and incentives. The agency manually tracks the few expenses it incurs and does not provide “clock hour” classes. Other than the documents and information that title companies are permitted to provide at no cost, Thurston County Title charges fees for all other documents, and the fee schedule is posted on the agency’s Web site. The investigation disclosed no violations.

Clark County Title (licensed agent for Pacific Northwest Title Insurance Company and Commonwealth Land Title Insurance Company)

This agency provided only one class during the period under review, and it was appropriately documented with fees reflecting actual costs.

Investigators found:

- Business meal costs were allocated on a pro-rated basis by the number of guests without any consistent tracking of expenses to ensure compliance with the \$25 per person, per year regulation.
- The agency provided a 24-hour on-line property information service, Night Owl Plus, at no charge to real estate agents and brokers.

Proposed penalties

Pacific Northwest Title Insurance Co.

\$5,000 penalty, with \$2,500 suspended on condition of no further violations for two years and successful completion of a two-year compliance plan.

Commonwealth Land Title Insurance Co.

\$5,000 penalty, with \$2,500 suspended on condition of no further violations for two years and successful completion of a two-year compliance plan.

Cascade Title Co. of Clark County (licensed agent for Pacific Northwest Title Insurance Co. and Lawyers Title Insurance Corp.)

The agency has no method for consistently tracking expenses to ensure and document compliance with the \$25 rule. Investigators found:

- Business meal costs were allocated on a pro-rated basis by the number of guests.
- The agency provided Metroscan property information printouts at no costs to real estate agents, brokers and agencies.
- The agency provided refreshments that exceeded the \$25 rule, spending \$60.40.

Proposed penalties

Pacific Northwest Title Insurance Co.

\$10,000 penalty, with \$5,000 suspended on condition of no further violations for two years and successful completion of a two-year compliance plan.

Lawyers Title Insurance Corp.

\$10,000 penalty, with \$5,000 suspended on condition of no further violations for two years and successful completion of a two-year compliance plan.

Rainier Title, LLC (licensed agent for Commonwealth Title Insurance Co.)

This agency is owned, in part, by John L. Scott and Coldwell Banker Bain real estate companies in what is known as an affiliated business arrangement. Similar to other agencies, Rainier Title has no method for consistently tracking expenses to ensure and document compliance with the \$25 rule. Investigators found:

- Business meal costs were allocated on a pro-rated basis by the number of guests.
- The agency provided RealQuest and New Home Trends, online property information services, to producers at less than fair market value. Rainier Title pays \$3,100 monthly for the New Home Trends subscription, but only charges 15-50 cents per report.
- Violations of the \$25 per person per year rule when recipient was an entity, rather than an individual:
 - \$55.76 for refreshments at Coldwell Banker Bain meeting
 - \$37.45 for candy for Windemere Canyon, Feb. 6, 2007
 - \$74.87 for pizza for Allied Home Mortgage, Feb. 6, 2007
 - \$124.80 for muffins to Coldwell Banker Bain Gig Harbor, Dec. 8, 2006
- Inducement violations:
 - \$100 gift card to the John L. Scott Christmas party raffle, Dec. 8, 2006
 - \$660.82 for door prizes, ornaments, candy and wrap for John L. Scott Christmas party, Dec. 9, 2006
 - \$40 for raffle tickets for John L. Scott Christmas party, Dec. 7, 2006
 - \$1,500 sponsorship for the Pierce County Association of Realtor's 100th Anniversary Celebration, December, 2006
- Clock hour class violations:
 - Provided five "clock hour" classes for real estate agents, charging between \$30 and \$48 per person. The class fees failed to include the cost of advertising, classroom and staff time.
 - Provided a free class on taxes to 11 real estate agents, Jan. 30, 2007.

Proposed penalties

Commonwealth Land Title Insurance Co.

\$115,000 penalty, with \$65,000 suspended on condition of no further violations for two years and successful completion of a two-year compliance plan.

Land Title Company (licensed agent for Chicago Title Insurance Co.)

The agency has no method for consistently tracking expenses to ensure and document compliance with the \$25 rule. Business meal per person costs were estimated or allocated on a pro-rated basis for the number of guests. Many receipts were missing, and only a few were itemized and allocated appropriately. Investigators found:

- The agency provided “RealQuest” property information for an annual \$25 “access” fee, when the value of this service to real estate professionals significantly exceeds that amount.
- Community Books were provided online at no charge.
- Courier services for the delivery of flyers were provided to real estate agents, lenders and builders at a nominal charge that didn’t reflect the true costs or market value of the service. The agency had two employees who had daily routes for pick up and deliveries as their primary job responsibility during the investigation period.
- Inducement violations:
 - \$56.46 for a floral arrangement for a real estate agency, February, 2007
 - \$400 for Seahawk playoff tickets for a mortgage broker and a real estate agent
 - \$2,251 for golf tournament sponsorship, benefiting a mortgage lender, including a \$1,216 cash donation to the lender, gift cards and \$385 worth of pizza for participants
 - \$145 for items purchased at the Mason County Board of Realtors auction
 - A disproportionate share of monthly co-advertising for a RE/MAX agent
- Pro-rated totals violations:

Some of Land Title’s Board of Directors are producers of title insurance business. The company was unable to provide individual itemized receipts for board member meals, but the company hosted meals during the investigation period as follows:

- \$128.92 for one meal, three diners, \$42.97 each
- \$155.59 for one meal, three diners, \$51.86 each
- \$65.18 for one meal, two diners, \$32.59 each
- \$72.92 for one meal, two diners, \$36.46 each
- \$39.65 for a real estate agent’s share of two meals

Proposed penalties

Chicago Title Insurance Co.

\$145,000 penalty, with \$30,450 suspended on condition of no violations for two years and the successful completion of a two-year compliance plan.

Stewart Title of Snohomish County, Inc.

(Note: Based on the number of violations found and the agency's apparent disregard for the law, the Office of the Insurance Commissioner issued a cease-and-desist order to Stewart Title Guaranty Co., on Aug. 6, 2007, demanding that the company stop its illegal spending on gifts, incentives and inducements. That order remains in effect. In addition, the Insurance Commissioner proposed a \$1.9 million fine against the insurer on Aug. 27, 2007, representing a \$10,000 penalty for each of the 195 violations found during the investigation. A hearing date for the matter has not been set).

The agency reported few expenses related to meals and entertainment. However, the agency said that some of its employees get a monthly "car allowance" of either \$450 or \$600 apiece. Investigators infer that a substantial portion of these allowances are used for meals and other gratuities for real estate agents, lenders and builders. For example, a sales representative is given a \$600 monthly allowance. In December 2006, this sales representative had 100 "Just Listed" pre-addressed postcards prepared for an American Family Real Estate agent without charge. Documented printing expenses submitted by the agency did not reflect payment for these postcards.

During the four-month period under review, the agency paid thousands of dollars in "desk fees" – monthly payments to real estate brokers that are supposedly to rent desk space in a broker's office, although the desk rarely is ever actually used by Stewart Title staff, but sits vacant with a "Stewart Title" sign on it. After an on-site visit by investigators, the agency informed each affected real estate office by letter on June 3, 2007, that the arrangements would cease on June 30, 2007. Notwithstanding, to date, the agency appears to continue this practice in Snohomish County.

The agency is a season ticket holder to the Seattle Seahawks, Everett Aquasox, Everett Silvertips and has a 20-game package to the Seattle Mariners' games. The agency claims that only company employees and their family members used these tickets. During the four-month period under review, the agency spent \$4,670 for Everett Silvertips tickets and \$884 for Seattle Seahawks tickets.

The agency charges real estate agents \$49 per transaction for "transaction coordinator" services, which typically cost between \$150 and \$175 per transaction in the Pacific Northwest region.

Inducement violations:

IN DECEMBER 2006

Gift to Sutton Real Estate	\$90.78
Refreshments for RE/MAX Champs Foreclosure Class	\$33.47
To RE/MAX NW Agent L. W. for Party	\$150.00

Donation to Windermere/Lake Stevens, Inc.'s Auction	\$725.00
Donation to RE/MAX Auction	\$2,050.00
Donation to Preview Properties' Christmas Fund	\$75.00
"Desk Fee" to Signature Properties NW, Inc.	\$1,000.00 for November
"Desk Fee" to Signature Properties NW, Inc.	\$1,000.00 for December
"Desk Fee" to Skyline Properties, Inc.	\$600.00
"Desk Fee" to Preview Properties, Inc.	\$1,050.00
Disproportionate Share of Co-Advertising in Snohomish Real Estate Guide for Eight (8) Real Estate Agents	\$875.00
Advertising for RE/MAX NW Agent J.B.	\$200.00
Advertising for RE/MAX NW Agent V.G.	\$100.00
Advertising for Executive Real Estate Agent C.B.	\$50.00
Advertising for The Dillon Team Agent C.D.	\$100.00
Advertising for RE/MAX NW Agent D.R.	\$125.00
Advertising for Keller Williams Agent D.D.	\$433.00
Advertising for RE/MAX NW Agent D.W.	\$150.00
Advertising for RE/MAX NW Agent G.M	\$150.00
Advertising for RE/MAX NW Agent J.S.	\$150.00
Advertising for Century 21 Agent J.K.	\$150.00
Advertising for John L. Scott Agent J.M.	\$150.00
Advertising for Preview Properties Agents B.S. and S.S.	\$125.00
Advertising for Preview Properties, Inc. Agent Y.S.	\$125.00
Advertising for RE/MAX NW Agent L.F.	\$125.00
Advertising for John L. Scott Agent M.H.	\$100.00
Advertising for Windermere Agent M.H.	\$100.00
Advertising for Century 21 Agent T.D.	\$100.00
Advertising for Windermere Agent V.C.	\$175.00
Advertising for Sundance Realty Group Agent S.A.	\$75.00
Advertising for Windermere Agents W.P. and J.P.	\$150.00
Website Support for Signature Properties Agent M.M.	\$60.00
Advertising for Windsor Carey Agent P.C.	\$100.00

A disproportionate Share of Co-Advertising in The Real Estate Book for Twelve (12) Real Estate Agents	\$1,750.00
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IN JANUARY 2007

Contribution to Real Estate Developer B.D.'s golf tournament	\$500.00
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"Desk Fee" to Signature Properties NW, Inc.	\$1,000.00
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"Desk Fee" to Preview Properties, Inc.	\$1,050.00
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A disproportionate Share of Co-Advertising in Snohomish Real Estate Guide for Eight (8) Real Estate Agents	\$775.00
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Advertising for RE/MAX NW Agent J.B.	\$100.00
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Advertising for RE/MAX NW Agent G.S.	\$100.00
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Advertising for RE/MAX NW Agent V.G.	\$200.00
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Advertising for RE/MAX NW Agents S.K. and M.K.	\$275.00
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Advertising for Keller Williams Agent D.D.	\$433.00
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Advertising for RE/MAX NW Agent D.W.	\$100.00
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Advertising for Century 21 Agent J.K.	\$150.00
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Advertising for John L. Scott Agent H.D.	\$100.00
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Advertising for Preview Properties Agents B.S. and S.S.	\$100.00
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Advertising for Preview Properties Agent Y.S.	\$100.00
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Advertising for RE/MAX NW Agent L.F.	\$100.00
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Advertising for John L. Scott Agent M.H.	\$100.00
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Advertising for Windermere Agent M.H.	\$100.00
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Advertising for Windermere Agent V.C.	\$200.00
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Advertising for Sundance Realty Group Agent S.A.	\$75.00
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Advertising for Windermere Agents W.P. and J.P.	\$100.00
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A disproportionate Share of Co-Advertising in The Real Estate Book for Eleven (11) Real Estate Agents	\$1,100.00
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IN FEBRUARY 2007

Gift to Washington Mutual Mortgage Lender	\$41.34
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Silver Sponsor at Century 21 Awards Banquet	\$1,000.00
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"Desk Fee" to Sutton Real Estate	\$1,000.00
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"Desk Fee" to Skyline Properties, Inc.	\$1,200.00
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"Desk Fee" to Signature Properties, Inc.	\$1,000.00
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“Desk Fee” to Preview Properties, Inc.	\$1,050.00
“Desk Fee” to Century 21 All Stars	\$300.00
A disproportionate Share of Co-Advertising in Snohomish Real Estate Guide for Eight (8) Real Estate Agents	\$775.00
Advertising for RE/MAX NW Agent J.B.	\$100.00
Advertising for RE/MAX NW Agent V.G.	\$300.00
Advertising for RE/MAX NW Agent D.R.	\$100.00
Advertising for RE/MAX NW Agents S.K. and M.K.	\$100.00
Advertising for John L. Scott Agent M.H.	\$100.00
Advertising for Keller Williams Agent D.D.	\$433.00
Advertising for RE/MAX NW Agent D.W.	\$100.00
Advertising for Century 21 Agent J.K.	\$150.00
Advertising for John L. Scott Agent H.D.	\$100.00
Advertising for Preview Properties Agents B.S. and M.S.	\$100.00
Advertising for Preview Properties Agent Y.S.	\$100.00
Advertising for RE/MAX NW Agent L.F.	\$100.00
Advertising for Windermere Agent M.H.	\$100.00
Advertising for Windermere Agent V.C.	\$200.00
Website support for Signature Properties Agent M.M.	\$60.00
Advertising for Windermere Agents W.P. and J.P.	\$100.00
Advertising for Sundance Realty Group Agent S.A.	\$75.00
Advertising for Preview Properties Agent L.F.	\$100.00
A disproportionate Share of Co-Advertising in The Real Estate Book for Eleven (11) Real Estate Agents	\$1,050.00
IN MARCH 2007	
“Desk Fee” to Sutton Real Estate	\$1,000.00
“Desk Fee” to Skyline Properties, Inc.	\$600.00
“Desk Fee” to Signature Properties, Inc.	\$1,000.00
“Desk Fee” to Preview Properties, Inc.	\$1,050.00
“Desk Fee” to Century 21 All Stars	\$300.00

A disproportionate Share of Co-Advertising in Snohomish Real Estate Guide for Eight (8) Real Estate Agents	\$775.00
Advertising for RE/MAX NW Agent V.G.	\$300.00
Advertising for RE/MAX NW Agent D.R.	\$100.00
Advertising for RE/MAX NW Agents M.K. and S.K.	\$100.00
Advertising for RE/MAX NW Agent J.B.	\$100.00
Advertising for John L. Scott Agent M.H.	\$100.00
Advertising for Keller Williams Agent D.D.	\$433.00
Advertising for RE/MAX NW Agent D.W.	\$100.00
Advertising for Century 21 Agent J.K.	\$150.00
Advertising for John L. Scott Agent H.D.	\$100.00
Advertising for Preview Properties Agents B.S. and S.S.	\$100.00
Advertising for Preview Properties Agent Y.S.	\$100.00
Advertising for RE/MAX NW Agent L.F.	\$100.00
Advertising for Windermere Agent M.H.	\$100.00
Advertising for Windermere Agent V.C.	\$200.00
Advertising for Windermere Agents W.P. and J.P.	\$100.00
Advertising for Sundance Realty Group Agent S.A.	\$75.00
Advertising for Preview Properties Agent L.F.	\$100.00
Website support for Signature Properties Agent M.M.	\$60.00
A disproportionate Share of Co-Advertising in The Real Estate Book for Nine (9) Real Estate Agents	\$950.00

Conclusions and recommendations

Although the previous investigation disclosed that companies already touched by the agency's enforcement effort appear, as a result, to be striving for compliance, this investigation of previously unaffected companies seems to indicate that, by and large, the industry remains indifferent to the \$25 limit and compliance requirements.

The agency will continue to carry on a random schedule of unannounced enforcement investigations in the future. It is presumed that media interest and focused attention within the industry over these continuing investigations and fines will eventually convince title insurance companies that the Insurance Commissioner is serious about ensuring industry compliance with the laws and regulations that pertain to inducements and incentives, including maintaining appropriate documentation for this spending.

The agency will maintain this strategy until the Insurance Commissioner is satisfied that title insurance companies understand state law as it pertains to incentives and inducements, and consistently comply with those requirements.